

Public Notice

U.S. Army Corps of Engineers, Norfolk District

CENAO-REG
NAO-2007-1472

April 10, 2007

FEDERAL PUBLIC NOTICE

The District Engineer has received a prospectus to establish a compensatory wetland and stream mitigation bank for Federal and State permits as described below:

BANK SPONSOR

Mr. David M. Jordan, P.E.
C/o Environmental Development Solutions, LLC
18267 Channel Ridge Court
Leesburg, Virginia 20176

WATERWAY AND LOCATION OF THE PROPOSED WORK: The proposed mitigation bank site is located on 411 acres located between R.F. & P. Railroad line and the Mattaponi River approximately 0.6-miles northwest of State Route 626 at Woodford, Virginia. The site is situated within the Mattaponi River watershed.

PROPOSED WORK AND PURPOSE: The Bank sponsor, Mr. David Jordan, proposes to establish, design, construct, and operate an approximately 411-acre compensatory wetland and stream mitigation bank (Bank) on a site historically used for gravel and sand mining operation in the mid 1950's. Portions were recently used for agricultural purposes. The Bank's goal is to restore, enhance, and preserve the functions of the onsite streams and wetlands. The design would incorporate approximately 3,300 linear feet stream bank to the Mattaponi River and all intermittent streams within the project area. The stream buffers would be replanted where necessary and protected in perpetuity with a deed restriction. The historic forested wetlands will be restored/enhanced by removing berms, access roads and gravel ponds from past mining activities. Further details are provided in the attached prospectus and Master Plan

The primary focus of the Bank is to provide compensation for unavoidable impacts to non-tidal wetlands and other waters of the United States in the Bank's service area. Geographic Service Area (GSA) boundaries are designated based on certain Hydrologic Unit Codes (HUC's) established by the U.S. Geological Survey. The proposed GSA includes the primary hydrologic units 02080105, 0208106 and 0208107. This area includes all or portions of Caroline County, King and Queen County, Gloucester County, King William County, Louisa County, Hanover County, New Kent County, and York County.

Federal and State agency representatives known as the Mitigation Bank Review Team (MBRT) would oversee the Bank. The MBRT will be chaired by the Norfolk District of the U.S. Army Corps of Engineers (COE).

AUTHORITY: A Public Notice is recommended pursuant to Federal Guidance for the Establishment, Use and Operation of Mitigation Banks (60 Federal Register Number 228). The actual approval of the use of this Bank for a specific project is the decision of the COE pursuant to Section 404 of the Clean Water Act and the Virginia Department of Environmental Quality (DEQ) pursuant to Section 401 of the Clean Water Act and Title 62.1 of the Code of Virginia. The Corps and DEQ will provide no guarantee that any

particular permit will be granted to use this Bank to compensate for unavoidable stream and wetland impacts in the GSA, even though compensatory mitigation credits may be available.

FEDERAL EVALUATION OF PROPOSAL: The Corps of Engineers is soliciting comments from the public, Federal, state, and local agencies and officials, Indian Tribes, and other interested parties in order to consider and evaluate the impacts of this proposed Bank. Any comments received will be considered by the Corps of Engineers in evaluating this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, conservation, economics, aesthetics, general environmental concerns, wetlands, fish and wildlife values, flood hazards, flood plain values, land use classification, shoreline erosion and accretion, recreation, water supply and conservation, energy needs, safety, food and fiber production, mineral needs, and consideration of property ownership.

Preliminary review indicates that: (1) no environmental impact statement will be required; (2) no species of fish, wildlife, or plant (or their critical habitat) listed as endangered or threatened under the Endangered Species Act of 1973 (PL 93-205) will be affected; and (3) no known properties eligible for inclusion or included in the National Register of Historic Places are in or near the permit area.

STATE EVALUATION OF APPLICATION: To comply with Section 401 of the Clean Water Act (the Act), any applicant for a Corps permit for a proposal which may result in a discharge to State waters must provide the Corps with a certification from the Virginia Department of Environmental Quality (DEQ). The DEQ must certify the water quality will be maintained in accordance with State Water Control Law (state law) and that the activity will comply with the applicable provisions of Sections 301, 302, 303, and 306 and 307 of the Act. A certification must set forth any effluent limitations and other limitations, conditions and/or requirements needed to assure compliance with the Act itself and with other appropriate requirements of state law. In Virginia, the 401 Water Quality Certification is issued as a Virginia Water Protection Permit.

COMMENT PERIOD: Comments on this project should be made in writing, addressed to the Norfolk District, Corps of Engineers, ATTN: Regena Bronson, P.O. Box 1704, Leonardtown, MD 20650, and should be received by the close of business on **May 10, 2007**. Copies will be forwarded to DEQ.

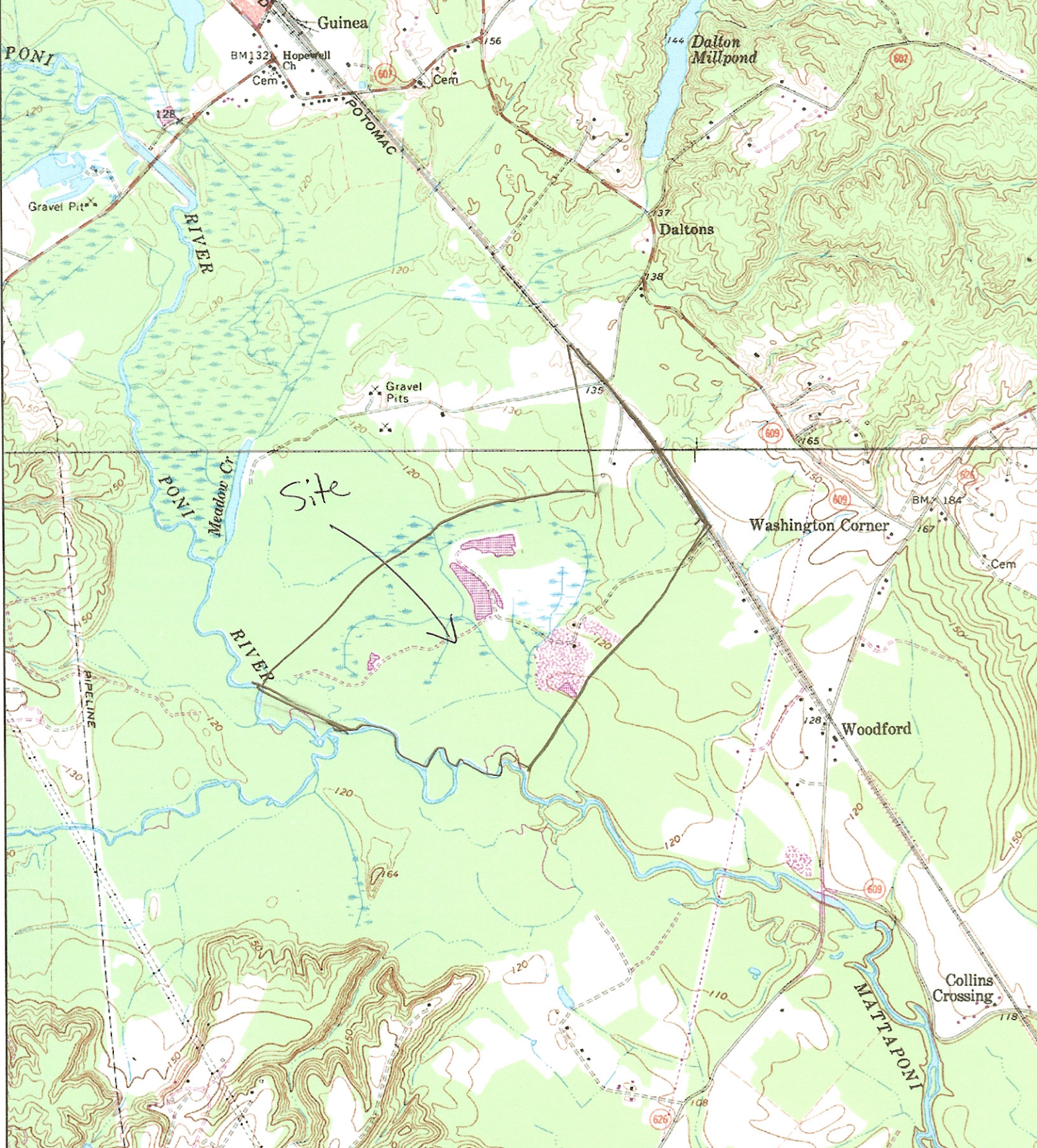
If you have any questions about this project or the permit process, please contact:

Regena Bronson
U.S. Army Corps of Engineers
Potomac Field Office
(301) 475-2720
Regena.d.bronson@usace.army.mil

FOR THE DISTRICT COMMANDER:

Keith B. Lockwood
Chief, Northern Virginia
Regulatory Section

Enclosures



I. INTRODUCTION

The Bank Sponsors (Sponsors) are considering the establishment of a compensatory wetland mitigation and stream mitigation bank to provide off-site compensation for the unavoidable loss of wetlands and stream corridors and their functions as a result of unavoidable stream and wetland impacts caused by construction activities within the proposed bank's Geographic Service Area. The primary Geographic Service Area is the Mattaponi River Watershed as defined by Hydrologic Units Code (HUC) 02080105. This area is located in the center of the Mid-Atlantic Region, within the Lower Chesapeake Sub-Region and Accounting Unit (020801 – See Figure 1).

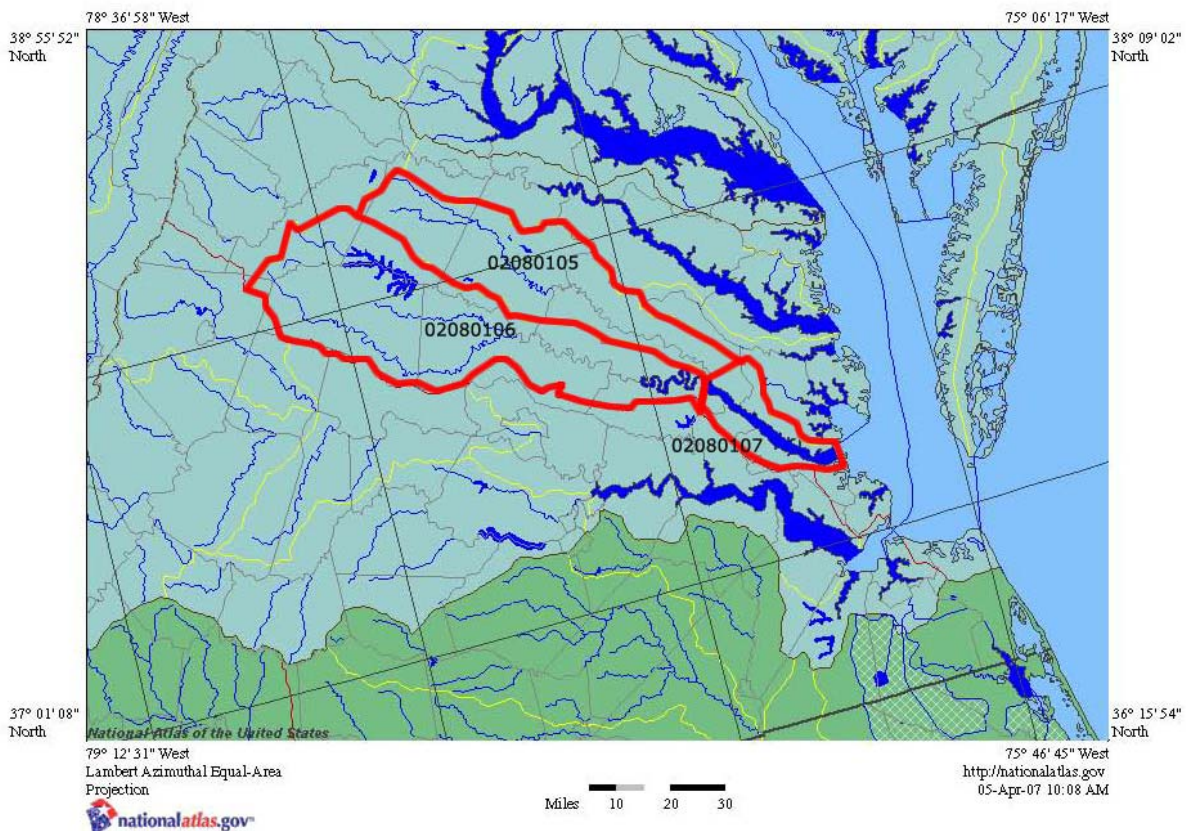


Figure 1. Location of the Lower Chesapeake Accounting Unit.

The proposed secondary geographic areas would include HUCs adjacent to the primary service area. They include the Pamunkey and the York River Watersheds (02080106 and 02080107, respectively). Additional areas may include the Rapidan-Upper Rappahannock and the Lower Rappahannock Watersheds (02080103 and 02080104), but the MBRT members will review these proposed secondary areas on a case-by-case basis.

A Mitigation Banking Instrument (MBI) will be developed by the bank sponsors to establish the bank. The MBI will contain the Site Development Plan (SDP) and will include location plans and specifications for construction, operation and monitoring of the bank. The banking

instrument and the development and operation of the wetland portion of the bank will be in accordance with the Code of VA Sect. 33.1-223.2.1 Wetland Banking and the “Federal Guidance for the Establishment, Use and Operation of Mitigation Banks”, published in Volume 60, Number 228 of the Federal Register, November 28, 1995, referred to hereafter as Federal Banking Guidance. Credits with respect to the stream mitigation portions of the bank will be determined according to the procedures set forth in the Unified Stream Methodology guidance issued in final draft form in January 2007 (as amended), and will be developed consistent with requirements under the Virginia Water Protection Permit (VWPP) regulations (9 VAC 25-210-10 et seq.). The main focus of the Bank will be compensation for project impacts to jurisdictional waters. The goals and objectives of the SDP will target important ecological functions and related values.

II. SITE DESCRIPTION

The proposed stream and wetland mitigation bank is an approximately 411-acre property located between the R.F. & P. Railroad line and the Mattaponi River approximately 0.6 miles northwest of State Route 626 at Woodford, Virginia in Caroline County (see Figure 2). The proposed bank is located on properties currently owned by Terra Products, Inc.



Figure 2. Aerial photograph of approximate location of proposed wetland bank.

The Bank is located on the large flood plain of the Mattaponi River and adjacent uplands. It is nearly level with 0-2% slopes. According to the Caroline County Soil Survey the lower portions of the project area are underlain predominantly by Chastain silt loam (7A in Figure 3) and Chewacla silt loam (8A in Figure 3) soils. Upper areas are underlain predominantly by Altavista fine sandy loam (1A and 1B in Figure 3) and Tomotley-Roanoke complex soils (26A in Figure 3). These soils are considered hydric; the lower soils are ponded or occasionally flooded while the upper soils are rarely flooded.

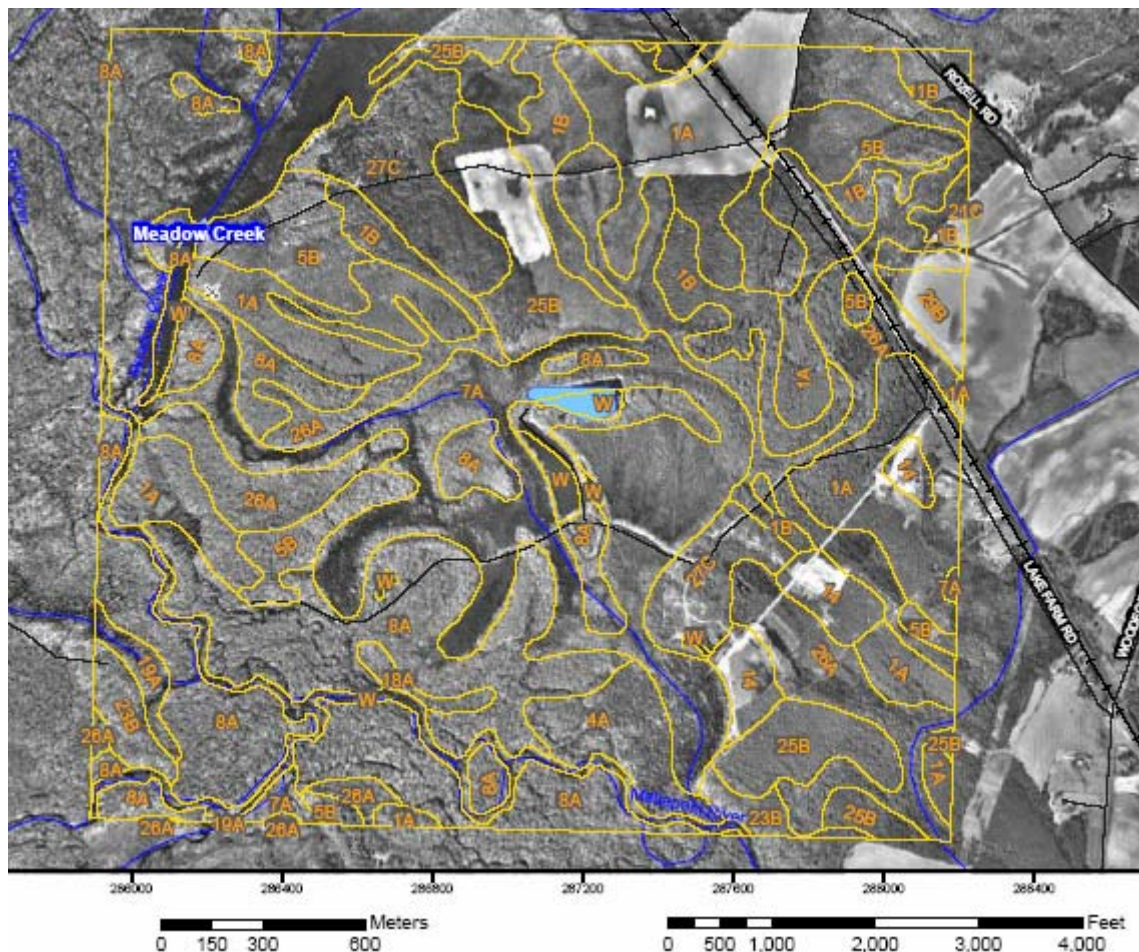


Figure 3. Soils map of the proposed wetland bank area.

The US Fish & Wildlife Service, through its National Wetland Inventory program, has mapped much of the project site (See Figure 4). The predominant wetlands on the site are PFO and PSS. According to the Cowardin Wetland Classification, PFO wetlands are palustrine forested; PSS wetlands are palustrine shrub-scrub. Several areas are designated PFO5, which are dead forested wetlands. Figure 4 shows the locations of these wetland systems.

Some portions of the project area appear to have been ditched and drained to support either forestry, agriculture or sand and gravel mining (See Photos 1 and 2). Other portions of the project have been bermed to provide road access or to prevent flooding of potential sand and

gravel borrow areas (See Photos 3, 4 and 5). Other portions of the project area have been used as sand and gravel borrow areas (See Photos 6 and 7).

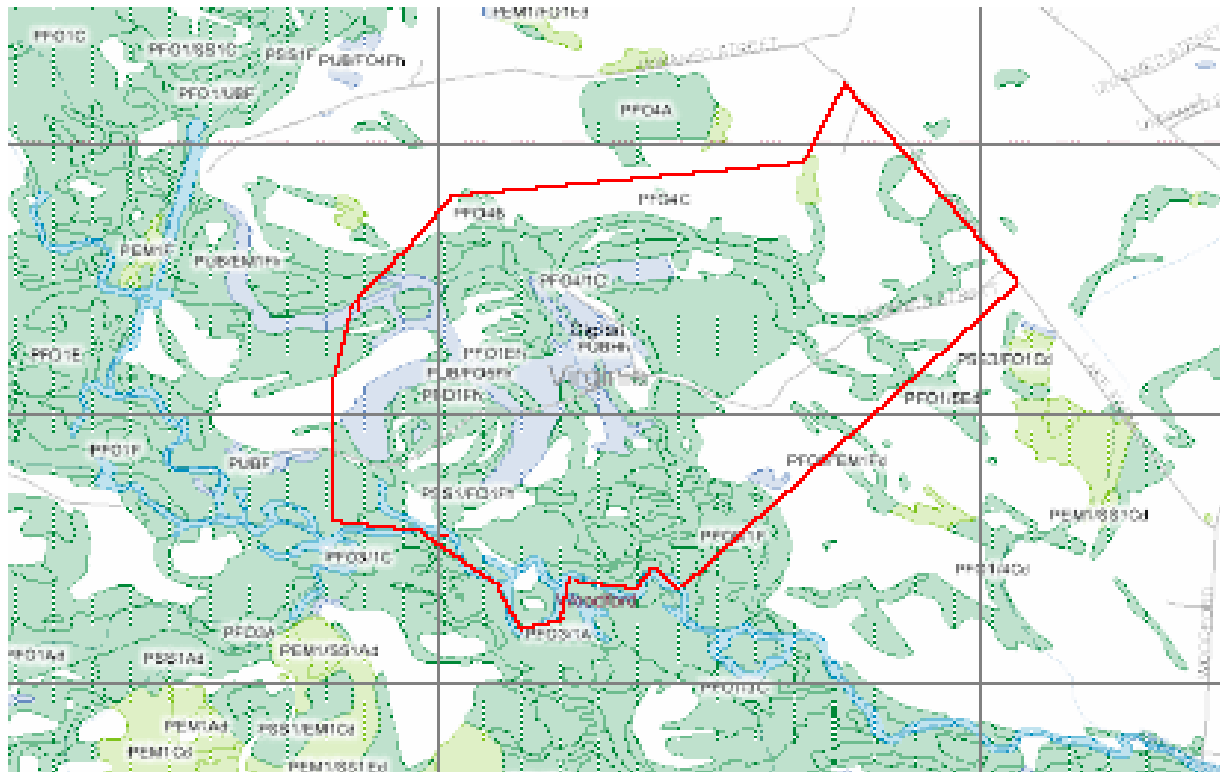


Figure 4. Fish & Wildlife Service Wetlands Map.

III. GOALS

The goal of the Bank is to restore self-sustaining, functional stream corridors, including the channels and the riparian buffers, as well as wetland habitats to replace the stream and wetland functions and values lost due to unavoidable adverse impacts to streams and wetlands by development activities within the authorized service area. Some of the targeted functions include wildlife habitat, water quality, flood conveyance and storage, and erosion control. Restoring the historic wetlands to a palustrine forested wetland system will achieve the functional goals of the wetlands portions of this project. Protecting and enhancing the stream riparian buffer will achieve the functional goals of the stream mitigation portions of this project. The Bank will greatly enhance the existing drainage basin and the quality of water flowing to the Mattaponi River and Chesapeake Bay.

The Bank Sponsors propose to establish the wetlands portion of this bank by creating, enhancing and restoring wetlands. Wetlands will be created by filling the various sand and gravel borrow pits on the property. Existing degraded wetlands will be enhanced by removing the impediments to appropriate wetland hydrology that have been created at the site to support sand and gravel operations. Such impediments include access roads that have bisected wetland areas, and numerous berms that have been constructed to re-direct water flow and prevent flooding of the sand and gravel areas. Areas that appear to have been drained with ditches will be evaluated to

determine whether or not wetlands existed in those areas previously. If so, wetland areas will be restored to those locations by filling of the drainage ditches, or by regrading the area to reestablish forested wetland conditions.

The Bank Sponsors propose to establish the stream corridor portion of this bank by preserving at least 100 feet, and possibly as much as 300 feet of riparian buffer along a 3,300' section of one bank of the Mattaponi River and along both banks of several perennial and intermittent streams that flow through the property. The Bank sponsors also propose to meet the Bank's goals through restoration and/or enhancement of perennial and intermittent stream channels through modifications that may included but not limited to Natural Channel Design (NCD) techniques, channel cross section and pattern alterations, bank stabilization and bioengineering techniques, grade control and in-stream structures, establishment and/or preservation of forested riparian buffers, preservation of associated watershed areas, and removal of detrimental land use activities (i.e. sand and gravel extraction) in appropriate riparian corridors.

The site will be manipulated with the goal of returning natural/historic functions to former wetland areas and to preserve and enhance stream corridor areas. To accomplish the goals of this Bank, the Sponsors, consistent with a site-specific MBI, will:

1. Use acreage within the bounds of the available property that has potential for restoring or creating wetlands or such other adjacent acreage that would provide for the preservation of existing valuable wetlands and stream riparian areas on the Mattaponi River flood plain as an enhancement of the project's overall goals and objectives.
2. Develop a detailed Site Development Plan (SDP) that will include clearly-stated goals and objectives for the bank. The SDP will be based on a site-specific water budget and will provide detailed construction and planting plans and specifications for the wetland restoration and riparian buffer enhancement work that will include the following basic elements:
 - a. Establish wetland hydrology through such measures as: disabling existing drainage structures, lowering grades if necessary, modifying soil structure to increase water storage capacity or to reduce permeability rates, and by regulating surface runoff by constructing or removing earthen berms and other topographic features and/or by installing hydrological control devices to regulate water flow from the site.
 - b. Design and implement a hydrological monitoring plan for confirmation of target wetland hydrology regimes that are consistent with the vegetative goals and objectives of the bank.
 - c. Develop wetland planting schemes that reflect the goals and objectives of the wetland banking portion of the project and that are compatible with the native wetland communities of the watershed.

- d. Develop riparian buffer planting schemes that reflect the goals and objectives of the stream corridor banking portion of the project and that are compatible with the native wetland and upland communities of the watershed.
 - e. Develop and implement construction and post construction monitoring and contingency measures as necessary to meet established performance criteria.
3. Provide assurances of financial resources for the construction and maintenance of the Bank through a post-construction monitoring period to ensure that all performance criteria are met.
 4. The Sponsor will administer the compensation credit accounting of the Bank during its operational life (until all credits are debited) and provide for the long-term preservation and management of the wetlands and riparian buffers within the bank.

IV. CRITERIA FOR USE

Decisions concerning project applicability, relationship to mitigation requirements, use of a mitigation bank vs. on-site mitigation, and in-kind vs. out-of-kind determinations for both wetlands credits as well as stream corridor mitigation credits will be made during a project's permit acquisition process. Decisions concerning credit withdrawal from a bank will be made in accordance with the Code of Virginia Section 33.1-223.2.1 Wetland Banking and Sections II.D.6 and 7 of the Federal Banking Guidance (November 28, 1995). In addition, the following general guidelines will apply to this bank:

1. Availability of Credit will be based on the level of achievement of the Goals and Objectives contained in the SDP approved by the MBRT.
2. Debits of available credit from the bank account to compensate for the impacts of authorized projects will be based on the permit requirements for those projects. The permit requirement will normally reflect consideration of the value of the wetlands impacted along with the value of the available compensation credit in the Bank. Standard compensation ratios consistent with those used by the permitting agencies for created wetlands will be applied at the time of the application.
3. Limited use of the bank for projects outside the service area will be consider by the MBRT on a case-by-case basis.

The Bank will establish and maintain an accounting system (i.e., a ledger) that documents credits and debits to the bank account. Each time an approved debit/credit transaction occurs, the Sponsor will submit a statement to the permitting agencies. The Sponsor will also generate an annual ledger report to be submitted to all members of the MBRT. The ledger will be available for inspection upon request by any participating agency.

Remedial action may be necessary during the operational life of the bank to meet the performance criteria. If the Sponsor does not follow the approved site development plan and as a

result, the performance criteria are not achieved, the Sponsor will implement corrective measures to achieve performance criteria or identify other successful areas not previously monitored for compensation credit within the bank. If the Sponsor has followed the approved plan but the performance criteria are still not fully met, the MBRT will work cooperatively to determine measures to achieve the performance criteria while minimizing additional costs.

V. LONG-TERM MONITORING AND MAINTENANCE

Decisions concerning the operational life of the bank, long-term monitoring/management, remedial actions, and financial assurances will be made in accordance with the Federal Banking Guidance (November 28, 1995) and approved by the MBRT. The Bank will be provided long-term protection in the form of a perpetual legal instrument that is agreeable to the MBRT.

PHOTOS



Photo 1

Photograph of the upper area of the site showing potential drainage ditch used to drain the site to allow forestry or other agricultural uses.



Photo 2 - Photograph of the upper area of the site showing potential drainage ditch used to drain the site to allow forestry or other agricultural uses.



Photo 3 - Photograph showing roadway built through wetland area that restricts the pre-development wetland flow.



Photo 4 – Photograph showing berm placed along the stream (to the left) to prevent flooding of the area to the right.



Photo 5 –
Photograph of
typical pipe
culvert used to
connect
separated
wetland areas
on both sides of
the constructed
roadway. Most
of these culverts
are inadequate
to provide
appropriate
hydrological
connection.



Photo 6 – Photograph of one of the sand and gravel borrow pits.



Photo 7 – Photograph of one of the sand and gravel borrow pits.